

Exhibit 5

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1 UNITED STATES DISTRICT COURT
1 SOUTHERN DISTRICT OF NEW YORK

2 -----x

3 IN RE: TERRORIST ATTACKS ON
3 SEPTEMBER 11, 2001

03 MDL 1570

4 -----x

5 April 12, 2011
6 2:00 p.m.

7 Before:

8 HON. FRANK MAAS,

9 Magistrate Judge

10 APPEARANCES

11 ANDERSON KILL & OLICK PC

11 Attorneys for O'Neill Plaintiffs and PEC

12 BY: JERRY S. GOLDMAN

13 KRIENDLER & KREINDLER LLP

13 Attorneys for Plaintiff Ashton

14 BY: JAMES P. KREINDLER

15 COZEN O'CONNOR

15 Attorneys for Plaintiff Federal Insurance

16 BY: SEAN CARTER

17 MOTLEY RICE LLC

17 Attorneys for Plaintiffs Burnett & Eurobrokers

18 BY: ROBERT HAEFFELE

19 MCMAHON & ASSOCIATES

19 Attorneys for Defendants IIRO, MWL and Wael Jelaidan

20 BY: MARTIN MCMAHON

21 LAW FIRM OF OMAR T. MOHAMMEDI LLC

21 Attorneys for Defendants WAMY and WAMY International

22 BY: OMAR T. MOHAMMEDI

22 FREDERICK GOETZ (via telephone)

24 ALSO PRESENT: STEVEN COTTREAU

24 STEVEN BARENTZEN

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1 reference in there that we want certain electronic, for
2 instance, lists of recipients.

3 Now, at various times we have been told that there is
4 no electronic record for these organizations. In an earlier
5 brief we made the point that one of the documents disclosed to
6 us included a reference to a search conducted in 1995 of the
7 IIRO's computer system to determine if they gave aid to a
8 particular recipient. So, our view is that there is a computer
9 system and it's existed at least to that time.

10 The indices that we received --

11 THE COURT: Let me interrupt you for a second and ask.
12 They have proffered a sacrificial lamb in terms of somebody who
13 they say is knowledgeable about recordkeeping, it sounded like,
14 worldwide for one of the entities. Why wouldn't you want to
15 talk to that person?

16 MR. CARTER: Well, the way this involved initially,
17 your Honor, is that we actually proposed that there may be a
18 possibility at an appropriate time to do the deposition of a
19 records custodian. Our understanding is that the individual
20 who has been most recently identified had resigned. Now that's
21 our understanding of what we were told by Mr. McMahon at some
22 point previously. Now he has obviously returned or maybe the
23 earlier indication was inaccurate. Who knows.

24 THE COURT: Or he may have resigned but still be
25 available for this purpose.

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1 MR. CARTER: Correct. The difficulty from our
2 perspective is we are not really interested in learning the
3 universe or Muslim World League's or IIRO's documents as a
4 general matter. We have a pretty good handle on that, frankly,
5 based on the limited discovery we've conducted and our own
6 investigations. Before we take a deposition of a record
7 custodian --

8 THE COURT: Forget deposition. I thought Mr. McMahon
9 was saying come talk to the person, tour an office and see how
10 the records are kept.

11 MR. MCMAHON: Your Honor, because I saw some case law
12 to this effect, I think a defendant was sort of lectured by the
13 court that it's a little late in the game to be doing this.

14 But three years ago we the started this invitation
15 process specifically because there is some overlap between the
16 MWL and IIROSA. But there is a New York office, there was a
17 Virginia office, which the F.B.I. raided, and I'm getting back
18 all of those documents. So, I thought, gee, the 9/11 lawyers
19 would want to go to the MWL office to start with. But there is
20 a London office that is fairly typical of the worldwide
21 universe. We have offered London, Gibraltar, Madrid, even one
22 of the countries where the embassy bombings occurred, Tanzania,
23 I think, with the view you can come in and talk to people here
24 and maybe get a better understanding of things and narrow
25 things down. Because I feel it's in the best interests of

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1 our offices to see how they work.

2 Well, you know, the traditional practice in discovery
3 is that you send your requests, and the other side spends back
4 the responsive documents. Some of the stuff we have seen
5 produced to us thus far gives us tremendous pause about going
6 to any of the offices, because what we get are salutary letters
7 thanking the IIRO and Muslim World League for digging a well.
8 And it's specifically that kind of stuff we've said we don't
9 want; We are not interested in that.

10 THE COURT: Putting aside the obvious strength of
11 views on both sides in this case, it's been my experience that
12 when you are dealing with foreign discovery in any case, even
13 it's the manufacturer of widgets, getting the very sorts of
14 information that you seek is difficult just because of cultural
15 differences. And it sounds like Mr. McMahon has done this to
16 some extent, but usually out of frustration I have ended up
17 directing the person in Mr. McMahon's position to go and sit
18 down and sort of walk people through the files and do the types
19 of things that an associate would do in this country, dispatch
20 to somebody's warehouse in Iowa. And we may get to that. I
21 hear what you are saying about the eight categories.

22 MR. CARTER: And, again, I think we want to focus on
23 the eight categories, because everything else is not before the
24 court. You know, when we start talking about the indices, the
25 indices have 100,000 cells, so there is 100,000 entries in

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